

Showdown In Cigaret Suit Near

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The controversy over smoking and lung cancer headed for a showdown in Federal Court here today.

After two weeks of testimony in a 1½ million dollar damage suit against the American Tobacco Co., a 12-member jury heard final arguments of counsel representing the estate of Edwin M. Green, a Miamian who died of lung cancer two years ago.

Green's wife, Mary, of 2712 SW 17th Ave., had charged the cancer which struck down her husband, was caused at least in part, by his habit of smoking three packages of Lucky Strike cigarettes daily for over 20 years.

EVIDENCE DECISIVE

The contention of Mrs. Green was that Lucky Strikes were unsafe for human consumption.

In his summary, Dr. Lawrence V. Hastings, attorney for Mrs. Green, told the jury that it had merely to consider whether there was preponderance of evidence against the manufacturer — not whether testimony had shown conclusive proof that Lucky Strikes caused the lung cancer.

Hastings dismissed testimony for the company as having come from "paid performers."

He said statistics have shown an association between the increase in smoking and the increase in lung cancer in this country.

"Don't you think that the company has some responsibility to look at the leads which have been supplied by science?" Hastings asked the jury.

'TASTING LAB'

He charged the company's main concern has been the taste of its product.

"They have maintained a tasting lab instead of a testing lab," Hastings said, adding that the firm has spent billions for advertising and "not a penny for research into the problem."

Testimony in this case has been heard from physicians and scientists for both sides.

Final argument from the tobacco company was to be heard later today. Judge Emmet C. Choate was to charge the jury later this afternoon.

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Cigaret Suit Sent To Jury Cancer Liability Gets First Test

By ARTHUR JOHNSEY
Herald Staff Writer

A Miami Federal Court jury Monday became the only jury in the country to consider the question of whether lung cancer can be caused by heavy smoking.

But after three hours of deliberations, the jury was dismissed for the night, with instructions to return today at 9 a.m., to resume their efforts to bring in a verdict in the "lung cancer" damage suit trial.

U.S. District Judge Emmet Choate instructed the 12-member jury early in the afternoon on the laws governing the case, and put the decision in their hands.

"You are the first jury in the world ever to have the opportunity to consider this evidence," declared the attorney for the estate of Edwin P. Green, contractor who died in 1958.

His estate sued the American Tobacco Co. to prove lung cancer brought on by smoking

for some 30 years caused his death.

The case went to the jury with the warning of American Tobacco Co. counsel that a verdict permitting damages for Green's death would ruin the tobacco industry.

Such a decision, which the attorney for the company said would be based on evidence that amounted to speculation, could mean the "death knell of the industry" by opening a rash of damage suits.

He said no proof had been offered that a primary lung cancer caused Green's death, and emphasized a possibility that the contractor's affliction could have come from some other part of his body.

Repeatedly he asked the jury to remember that no autopsy had been taken after Green died although Green himself filed the suit and recorded his own testimony before his death.

The estate's attorney told the jury a lung cancer test case was reaching the jury for the first time "because every obstruction in the world has been put in the way of the case getting this far."

The jury summations climaxed two weeks of testimony in which Green's wife, Mary, of 2712 SW 17th Ave., contended the cancer that struck down her husband was caused at least in part by his smoking two to three packs of cigarettes a day.

The estate's attorney charged that the company's major concern in its research program has been preserving the taste of its cigarettes rather than finding whether they are harmful.

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